

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,)	Criminal No. 18-150(1) (DWF/HB)
)	
v. Plaintiff,)	
)	DEFENDANT'S PRETRIAL MOTION
MICHAEL HARI,)	FOR GOVERNMENT AGENTS TO
)	RETAIN ROUGH NOTES AND
Defendant.)	EVIDENCE

Michael Hari, through the undersigned attorneys, pursuant to Title 18, United States Code, Section 3500 et. seq., *Brady v. Maryland*, 375 U.S. 83 (1963), and Rule 16 of the Federal Rules of Criminal Procedure, moves the Court for an Order requiring any law enforcement agent, including any confidential reliable informants, to retain and preserve all rough notes taken as a part of their investigation, whether or not the contents of such rough notes are incorporated in official records. In addition, defendant moves for an order directing any and all officials involved in this case to preserve the evidence seized in the course of their investigation. The defendant so moves on the following grounds:

1. Rough notes can be considered statements within the meaning of Title 18, United States Code, Section 3500(e)(1). Rough notes can also contain exculpatory evidence as considered in *Brady v. Maryland*, 373 U.S. 83 (1963) and *Giglio v. United States*, 405 U.S. 150 (1972);

2. Destruction of rough notes by law enforcement officials can usurp the judicial function of determining what evidence must be produced. *United States v. Harris*, 543 F.2d 1247 (9th Cir. 1976);

3. The rough notes may contain facts favorable to the defense;

4. Evidence seized may be directly relevant to issues ranging from defendant's guilt or innocence to sentencing considerations. Its inspection and use as provided for under Rule 16(c) of the Federal Rules of Criminal Procedure, will be rendered impossible if it is altered or destroyed.

This motion is based on the indictment, the records and proceedings herein, such testimony as may be presented at the motion, and any briefing which the court may require thereafter.

Dated: July 18, 2019

Respectfully submitted,

s/ Shannon Elkins

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